

ESTTA Tracking number: **ESTTA295968**

Filing date: **07/17/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Eden Foods, Inc.
Granted to Date of previous extension	09/02/2009
Address	701 Tecumseh Road Clinton, MI 49326 UNITED STATES
Attorney information	Christopher Kelly Wiley Rein LLP 1776 K Street, N.W. Washington, DC 20006 UNITED STATES ckelly@wileyrein.com Phone:2027197000

Applicant Information

Application No	77648250	Publication date	05/05/2009
Opposition Filing Date	07/17/2009	Opposition Period Ends	09/02/2009
Applicant	Arthur Schuman, Inc. 40 New Dutch Lane Fairfield, NJ 07004 UNITED STATES		

Goods/Services Affected by Opposition

Class 029. First Use: 2000/01/00 First Use In Commerce: 2000/01/00
All goods and services in the class are opposed, namely: Cheese

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1440754	Application Date	03/28/1986
Registration Date	05/26/1987	Foreign Priority Date	NONE
Word Mark	EDENSOY		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 029. First use: First Use: 1983/07/00 First Use In Commerce: 1983/07/00 SOYBEAN BASED FOOD BEVERAGE		
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U.S. Registration No.	1452337	Application Date	09/21/1981
Registration Date	08/11/1987	Foreign Priority Date	NONE
Word Mark	EDEN		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 029. First use: First Use: 1967/03/00 First Use In Commerce: 1969/11/00 [MAYONNAISE;] PICKLED PLUMS; PROCESSED AND UNPROCESSED DRIED FRUITS; PROCESSED NUTS; PROCESSED SEEDS; VEGETABLE OILS; NAMELY, [CORN OIL,] OLIVE OIL, SAFFLOWER OIL, SESAME OIL; [FRUIT JAMS AND FRUIT MARMALADES; PEANUT BUTTER;] SNACK FOODS CONSISTING OF PROCESSED NUTS, PROCESSED SEEDS AND DRIED FRUITS</p> <p>Class 030. First use: First Use: 1967/03/00 First Use In Commerce: 1969/11/00 PROCESSED GRAINS, NAMELY, [CORN MEAL,] [TRITCALE FLOUR,] [SOY FLOUR, CHICKPEA FLOUR, BARLEY FLOUR,] WHEAT FLOUR, BUCKWHEAT FLOUR, MILLET FLOUR, RICE FLOUR, RYE FLOUR; PASTA, NAMELY, WHEAT NOODLES, [WHEAT AND EGG NOODLES, WHEAT AND SOY NOODLES,] WHEAT AND SPINACH NOODLES, WHEAT AND BUCKWHEAT NOODLES, [SOY BEAN PASTA;] SOY SAUCE; [WHEAT BRAN; WHEAT GERM;] BARLEY MALT SYRUP FOR TABLE USE; [MAPLE TABLE SYRUP; HONEY; MOLASSES; CANDY;] VINEGAR; MUSTARD; TOMATO BASED SPAGHETTI SAUCE; SEA SALT FOR TABLE USE; BEVERAGE CONSISTING OF TEA AND HERBS [; BREAKFAST CEREALS CONSISTING PRIMARILY OF PROCESSED AND PARTIALLY PROCESSED GRAINS, SEEDS AND NUTS]</p> <p>Class 031. First use: First Use: 1967/03/00 First Use In Commerce: 1969/11/00 UNPROCESSED BEANS, NAMELY, ADUKI, BLACK TURTLE BEANS, [CRANBERRY BEANS,] KIDNEY BEANS, GREAT NORTHERN BEANS, GREEN LENTILS,[MUNG BEANS,] NAVY BEANS, PINTO BEANS, SOY BEANS; UNPROCESSED PEAS, NAMELY, CHICKPEAS, [SPLIT PEAS;] UNPROCESSED NUTS; UNPROCESSED EDIBLE SEEDS; UNPROCESSED GRAINS, NAMELY BARLEY, RICE, [RYE, TRITCALE,] WHEAT, BUCKWHEAT AND MILLET; UNPROCESSED CORN AND UNPOPPED POPCORN; UNPROCESSED SEA VEGETABLES, NAMELY SEA WEED</p> <p>Class 032. First use: First Use: 1967/03/00 First Use In Commerce: 1969/11/00 [Fruit Juices]</p>		

U.S. Registration No.	1862634	Application Date	03/29/1993
Registration Date	11/15/1994	Foreign Priority Date	NONE
Word Mark	EDEN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1987/00/00 First Use In Commerce: 1987/00/00 vegetable oils, crushed tomatoes, sauerkraut, and processed can beans		


	<p>Class 030. First use: First Use: 1975/00/00 First Use In Commerce: 1975/00/00 pasta; pizza sauce; teas; crackers; chips; misos; and condiments; namely, mustard, sea salt, processed sesame seeds, garlic pastes, furikake, pickled beefsteak leaf powder, bonito flakes, pickled ginger, tekka, wasabi powder, tamari, and shoyu</p> <p>Class 031. First use: First Use: 1978/00/00 First Use In Commerce: 1978/00/00 unprocessed grains; namely, barley, wheat, and quinoa</p>
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U.S. Registration No.	1918958	Application Date	10/25/1993
Registration Date	09/12/1995	Foreign Priority Date	NONE
Word Mark	EDENBLEND		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1994/01/14 First Use In Commerce: 1994/01/14 soy bean and rice based food beverages		

U.S. Registration No.	2184768	Application Date	10/10/1996
Registration Date	08/25/1998	Foreign Priority Date	NONE
Word Mark	EDEN BIOSCIENCE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 1996/05/00 First Use In Commerce: 1996/05/00 plant growth regulators for agricultural use; plant food		

U.S. Registration No.	2229053	Application Date	05/22/1998
Registration Date	03/02/1999	Foreign Priority Date	NONE
Word Mark	EDEN		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 029. First use: First Use: 1967/03/00 First Use In Commerce: 1969/11/00 FRUIT BUTTER AND FRUIT SAUCE</p> <p>Class 032. First use: First Use: 1967/03/00 First Use In Commerce: 1969/11/00 FRUIT JUICES</p>		

U.S. Registration No.	2272652	Application Date	12/12/1996
Registration Date	08/24/1999	Foreign Priority Date	NONE
Word Mark	EDEN ORGANIC		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 029. First use: First Use: 1996/01/00 First Use In Commerce: 1996/01/00 vegetable oils; processed vegetables; soybean based food beverages; soybean based misos; nut and fruit butters; processed nuts; processed edible seeds; processed mixture consisting of any combination of fruits, nuts and seeds; vegetable chips; and dried fruits</p> <p>Class 030. First use: First Use: 1996/01/00 First Use In Commerce: 1996/01/00 tea; sugar; rice; pasta and noodles; flour; breakfast cereals; honey; syrup for table use; candy; salt; mustard; vinegar; sauces, namely, pizza and spaghetti sauces, soy sauce; processed grains; rice and grain based food beverages; herbal food beverages; seasonings, namely, processed sesame seeds, garlic pastes, furikake, pickled beefsteak leaf powder, bonito flakes, pickled ginger, tekka, wasabi powder; crackers; brown rice chips; granola</p> <p>Class 031. First use: First Use: 1996/01/00 First Use In Commerce: 1996/01/00 unprocessed fruits, unprocessed vegetables, unprocessed grains, unprocessed nuts and unprocessed edible seeds</p> <p>Class 032. First use: First Use: 1997/11/00 First Use In Commerce: 1997/11/00 fruit juices; beverage concentrates for use in making non-alcoholic soft drinks</p>

U.S. Registration No.	2326024	Application Date	01/21/1999
Registration Date	03/07/2000	Foreign Priority Date	NONE
Word Mark	EDENBALANCE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1998/10/00 First Use In Commerce: 1998/10/00 a food supplement, namely, an orally ingested enzyme beneficial to human intestinal bacteria		

U.S. Registration No.	2360206	Application Date	08/13/1999
Registration Date	06/20/2000	Foreign Priority Date	NONE
Word Mark	EDEN		

Design Mark	EDEN		
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1998/09/30 First Use In Commerce: 1998/09/30 food supplement, namely, an orally ingested enzyme beneficial to human intestinal bacteria		

U.S. Registration No.	2396738	Application Date	01/29/1998
Registration Date	10/24/2000	Foreign Priority Date	NONE
Word Mark	EDEN RANCH		
Design Mark	EDEN RANCH		
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1954/11/00 First Use In Commerce: 1954/11/00 Food supplements - vitamins, Minerals, food digestant aids in tablet form for human use		

U.S. Registration No.	2465964	Application Date	12/05/1997
Registration Date	07/03/2001	Foreign Priority Date	NONE
Word Mark	EDEN SPRINGS		
Design Mark	EDEN SPRINGS		
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 2000/09/22 First Use In Commerce: 2000/09/22 BOTTLED SPRING WATER		

U.S. Registration No.	2475031	Application Date	08/13/1999
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Registration Date	08/07/2001	Foreign Priority Date	NONE
Word Mark	EDEN BIFA 15		
Design Mark	<p style="text-align: center;">EDEN BIFA 15</p>		
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1998/09/30 First Use In Commerce: 1998/09/30 food supplement, namely, an orally ingested enzyme beneficial to human intestinal bacteria		

U.S. Registration No.	2503977	Application Date	10/18/2000
Registration Date	11/06/2001	Foreign Priority Date	NONE
Word Mark	EDEN		
Design Mark	<p style="text-align: center;">EDEN</p>		
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1983/07/00 First Use In Commerce: 1983/07/00 dietary food supplements, namely, edible Kombu root seaweed, garlic balls and ume plum concentrate		


U.S. Registration No.	2583453	Application Date	06/30/2000
Registration Date	06/18/2002	Foreign Priority Date	NONE
Word Mark	EDENSOY LIGHT		


Design Mark	EDENSOY LIGHT
Description of Mark	NONE
Goods/Services	Class 029. First use: First Use: 2000/12/29 First Use In Commerce: 2001/01/02 soybean based food beverage

U.S. Registration No.	2905671	Application Date	04/18/2003
Registration Date	11/30/2004	Foreign Priority Date	NONE
Word Mark	EDENEWS		
Design Mark	EDENEWS		
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1999/10/00 First Use In Commerce: 1999/10/00 NEWSLETTERS IN THE FIELD OF FOOD AND FOOD-RELATED TOPICS, NUTRITION, HEALTH AND DIET, FARMING AND AGRICULTURAL AND ENVIRONMENTAL ISSUES		

U.S. Registration No.	2977773	Application Date	10/22/2003
Registration Date	07/26/2005	Foreign Priority Date	NONE
Word Mark	EDEN		
Design Mark	EDEN		
Description of Mark	NONE		

Goods/Services	Class 030. First use: First Use: 2005/02/18 First Use In Commerce: 2005/02/18 Processed popcorn for popping
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U.S. Registration No.	3071337	Application Date	10/05/2001
Registration Date	03/21/2006	Foreign Priority Date	NONE
Word Mark	EDEN FOODS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 029. First use: First Use: 1975/00/00 First Use In Commerce: 1975/00/00 vegetable oils; processed vegetables; soybean based food beverages; soybean based misos; nut and fruit butters; processed nuts; processed edible seeds; processed mixture consisting of any combination of fruits, nuts and seeds; vegetable chips and dried fruits</p> <p>Class 030. First use: First Use: 1975/00/00 First Use In Commerce: 1975/00/00 tea; sugar; rice; pasta and noodles; flour; breakfast cereals; honey; syrup for table use; candy; salt; mustard; vinegar; sauces, namely, pizza and spaghetti sauces, soy sauce; processed grains; rice and grain based food beverages; herbal food beverages; seasonings, namely, processed sesame seeds, garlic pastes, furikake, pickled beefsteak leaf powder, bonito flakes, pickled ginger, tekka, wasabi powder; crackers; brown rice chips; and granola</p> <p>Class 031. First use: First Use: 1978/00/00 First Use In Commerce: 1978/00/00 unprocessed fruits, unprocessed vegetables, unprocessed grains, unprocessed nuts and unprocessed edible seeds</p>		

U.S. Registration No.	3102575	Application Date	04/18/2003
Registration Date	06/13/2006	Foreign Priority Date	NONE
Word Mark	EDEN		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 029. First use: First Use: 2002/06/28 First Use In Commerce: 2002/06/28 dried cherries

Attachments	75212401#TMSN.gif (1 page)(bytes) 75625362#TMSN.gif (1 page)(bytes) 75776221#TMSN.gif (1 page)(bytes) 75425698#TMSN.gif (1 page)(bytes) 75400719#TMSN.gif (1 page)(bytes) 75776220#TMSN.gif (1 page)(bytes) 76150542#TMSN.gif (1 page)(bytes) 76081936#TMSN.gif (1 page)(bytes) 76508343#TMSN.gif (1 page)(bytes) 76553947#TMSN.gif (1 page)(bytes) 76321613#TMSN.gif (1 page)(bytes) 76507547#TMSN.gif (1 page)(bytes) PASTURES OF EDEN.pdf (27 pages)(953463 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Christopher Kelly/
Name	Christopher Kelly
Date	07/17/2009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

EDEN FOODS, INC.,)	
)	
Opposer,)	
)	Opposition No.: _____
v.)	App. Ser. No.: 77/648,250
)	Mark: PASTURES OF EDEN
ARTHUR SCHUMAN, INC.,)	
Applicant.)	
)	

NOTICE OF OPPOSITION

Eden Foods, Inc., a Michigan corporation, with principal offices located at 701 Tecumseh Road, Clinton, Michigan 49236 (hereinafter “Opposer”), hereby opposes registration of application Ser. No. 77/648,250 – PASTURES OF EDEN for “cheese,” in International Class 29, filed January 13, 2009, by Arthur Schuman, Inc. (“Applicant”), and published for purposes of opposition in the Official Gazette dated May 5, 2009.

Opposer will be damaged by registration of the subject application and puts forth the following grounds for opposition:

1. Opposer is a leading producer of natural and organic food and beverage products sold under a variety of trademarks consisting in whole or part of the brand name EDEN.
2. Opposer adopted and commenced use of the EDEN name as a trademark in connection with food and beverage products over forty years ago and has used the EDEN name as a trademark continuously and without interruption to the present day.
3. Opposer’s EDEN brand products are sold throughout the United States through virtually all types of merchandising outlets, including, but not limited to, national and regional supermarket chains, local grocery stores, food cooperatives, health food stores, convenience

stores and department stores. Opposer's products also are available through mail order outlets and via the Internet.

4. Opposer's EDEN brand products are sold to local, regional and national distributors for resale to retail outlets; to institutional purchasers; directly to retail outlets for resale to consumers; and directly to consumers through Opposer's website at <www.edenfoods.com>.

5. Over the years, Opposer has developed a family of EDEN marks, including, EDEN, EDEN FOODS, EDENEWS, EDEN SPRINGS and EDEN RANCH (collectively the "EDEN Marks").

6. Based on Opposer's extensive, exclusive and continuous use of the EDEN Marks in connection with the foregoing, the EDEN Marks have come to be widely recognized among the consuming public as designators of origin with respect to Opposer's goods and services.

7. The strength of Opposer's EDEN Marks has been expressly recognized by the Trademark Trial and Appeal Board in the following two decisions:

(a) In *Eden Foods, Inc. v. Ficiel Marketing Corp.*, Opposition No. 91/107,487 (June 28, 2000), Opposer successfully challenged registration of the designation EDAN VALLEY for a variety of food and beverage products. The Board found EDEN strong in its field.

(b) In *Eden Foods, Inc. v. Thomas Brenkwitz, d/b/a Brenkwitz Farms*, Opposition No. 91/151,474 (June 16, 2005), Opposer successfully opposed registration of the designation EDEN GARDEN & Design for "fresh fruits." In upholding the opposition, the Board recognized Opposer's family of

EDEN marks and again found EDEN strong and entitled to a broad scope of protection.

8. Opposer is the owner of all right, title and interest in the following federal registrations, which presently are valid and subsisting in law (photocopies are attached as Exhibit A):

(a) Reg. No. 1,440,754 -- **EDENSOY** for soybean based food beverages, registered on the Principal Register May 26, 1987.

(b) Reg. No. 1,452,337-- **EDEN** for pickled plums; processed and unprocessed dried fruits; processed nuts; processed seeds; vegetable oils; namely, corn oil, olive oil, safflower oil, sesame oil; snack foods consisting of processed nuts, processed seeds and dried fruits; processed grains, namely, corn meal, soy flour, chickpea flour, barley flour, wheat flour, buckwheat flour, millet flour, rice flour, rye flour; pasta, namely, wheat noodles, wheat and egg noodles, wheat and soy noodles, wheat and spinach noodles, wheat and buckwheat noodles; soy sauce; barley malt syrup for table use; vinegar; mustard; tomato based spaghetti sauce; sea salt for table use; beverage consisting of tea and herbs; unprocessed beans, namely, aduki, black turtle beans, kidney beans, great northern beans, green lentils, mung beans, navy beans, pinto beans, soy beans; unprocessed peas, namely, chickpeas, split peas; unprocessed nuts; unprocessed edible seeds; unprocessed grains, namely barley, rice, wheat, buckwheat and millet; unprocessed corn and unpopped popcorn; unprocessed sea vegetables, namely sea weed, registered on the Principal Register August 11, 1987.

(c) Reg. No. 1,862,634 -- **EDEN** for vegetable oils, crushed tomatoes, sauerkraut, and processed canned beans; pasta; pizza sauce; teas; crackers; chips; misos; and condiments; namely, mustard, sea salt, processed sesame seeds, garlic pastes, furikake, pickled beefsteak leaf powder, bonito flakes, pickled ginger, tekka, wasabi powder, tamari, and shoyu; unprocessed grains; namely, barley, wheat and quinoa, registered on the Principal Register November 15, 1994.

(d) Reg. No. 1,918,958 -- **EDENBLEND** for soybean and rice based food beverages, registered on the Principal Register September 12, 1995.

(e) Reg. No. 2,184,768 -- **EDEN BIOSCIENCE** for plant growth regulators for agricultural use; plant food, registered on the Principal Register August 25, 1998.

(f) Reg. No. 2,229,053 -- **EDEN** for fruit butter, fruit sauce and fruit juices, registered on the Principal Register March 2, 1999.

(g) Reg. No. 2,272,652 -- **EDEN ORGANIC & Design** for vegetable oils; processed vegetables; soybean based food beverages; soybean based misos; nut and fruit butters; processed nuts; processed edible seeds; processed mixture consisting of any combination of fruits, nuts and seeds; vegetable chips; and dried fruits; tea; sugar; rice; pasta and noodles; flour; breakfast cereals; honey; syrup for table use; candy; salt; mustard; vinegar; sauces, namely, pizza and spaghetti sauces, soy sauce; processed grains; rice and grain based food beverages; herbal food beverages; seasonings, namely, processed sesame seeds, garlic pastes, furikake, pickled beefsteak leaf powder, bonito flakes, pickled ginger, tekka, wasabi powder; crackers; brown rice chips; granola; unprocessed vegetables, unprocessed grains, unprocessed nuts and unprocessed edible seeds; fruit juices; beverage concentrates for use in making non-alcoholic soft drinks, registered on the Principal Register August 24, 1999.

(h) Reg. No. 2,326,024 -- **EDENBALANCE** for a food supplement, namely, an orally ingested enzyme beneficial to human intestinal bacteria, registered on the Principal Register March 7, 2000.

(i) Reg. No. 2,360,206 -- **EDEN** for food supplements, namely, orally ingested enzymes beneficial to human intestinal bacteria, registered on the Principal Register June 20, 2000.

(j) Reg. No. 2,396,738 -- **EDEN RANCH** for food supplements - vitamins, minerals, food digestant aids in tablet form for human use, registered on the Principal Register October 24, 2000.

(k) Reg. No. 2,465,964 -- **EDEN SPRINGS** for bottled spring water, registered on the Principal Register July 3, 2001.

(l) Reg. No. 2,475,031 -- **EDEN BIFA 15** for food supplements, namely, orally ingested enzymes beneficial to human intestinal bacteria, registered on the Principal Register August 7, 2001.

(m) Reg. No. 2,503,977 -- **EDEN** for dietary food supplements, namely, edible kombu root seaweed, garlic balls and ume plum concentrate, registered on the Principal Register November 6, 2001.

(n) Reg. No. 2,583,453 -- **EDENSOY LIGHT** for soybean based food beverage, registered on the Principal Register June 18, 2002.

(o) Reg. No. 2,905,671 -- **EDENEWS** for newsletters in the field of food and food related topics, nutrition, health and diet, farming and agricultural and environmental issues, registered on the Principal Register November 30, 2004.

(p) Reg. No. 2,977,773 -- **EDEN** for processed popcorn for popping, registered on the Principal Register July 26, 2005.

(q) Reg. No. 3,071,337 – **EDEN FOODS** for vegetable oils; processed vegetables; soybean based food beverages; soybean based misos; nut and fruit butters; processed nuts; processed edible seeds; processed mixture consisting of any combination of fruits, nuts and seeds; vegetable chips and dried fruits; tea; sugar; rice; pasta and noodles; flour; breakfast cereals; honey; syrup for table use; candy; salt; mustard; vinegar; sauces, namely, pizza and spaghetti sauces, soy sauce; processed grains; rice and grain based food beverages; herbal food beverages; seasonings, namely, processed sesame seeds, garlic pastes, furikake, pickled beefsteak leaf powder, bonito flakes, pickled ginger, tekka, wasabi powder; crackers; brown rice chips; and granola; unprocessed fruits, unprocessed vegetables, unprocessed grains, unprocessed nuts and unprocessed edible seeds, registered on the Principal Register, March 21, 2006.

(r) Reg. No. 3,102,575 – **EDEN** for dried cherries, registered on the Principal Register, June 13, 2006.

9. Those of the above-listed registrations which are more than five years old have become incontestable and are conclusive evidence of the validity of the registered mark, Opposer's ownership thereof and of Opposer's exclusive right to use the mark as provided by Section 33(b) of the Lanham Act, 15 U.S.C. § 1115(b).

10. Opposer has invested substantial sums advertising and promoting the sale of its goods under its family of EDEN Marks. Based on Opposer's extensive, exclusive and continuous use of its EDEN Marks, the relevant consuming public has come to recognize the EDEN Marks as being used by Opposer and to associate and identify the EDEN Marks with Opposer. Opposer has obtained and enjoys an exceedingly valuable reputation and goodwill symbolized by the EDEN Marks.

11. Opposer's adoption and first use of EDEN precede the filing date of the opposed application by a significant period of time.

12. On information and belief, Applicant uses the designation PASTURES OF EDEN in connection with food products, specifically cheese.

13. The goods identified in the opposed application are at least closely related to Opposer's goods and services offered under Opposer's EDEN Marks.

14. The designation PASTURES OF EDEN so resembles Opposer's EDEN Marks as to be likely, when applied to Applicant's goods, to cause confusion, mistake and to deceive.

15. Any defect, objection or fault found with any product sold under the designation PASTURES OF EDEN would injure the exceedingly valuable reputation and goodwill that Opposer has established for its products and services sold under its family of EDEN Marks.

16. PASTURES OF EDEN is confusingly similar to Opposer's EDEN Marks, so that its registration by Applicant would be inconsistent with and damaging to Opposer's prior and exclusive rights in its EDEN Marks in connection with the goods and services with which they are used.

17. Opposer will be damaged by the registration of PASTURES OF EDEN.

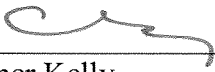
WHEREFORE, Opposer prays that its opposition be sustained and that Application Ser. No. 77/648,250 be denied registration.

This opposition is being filed by the undersigned attorneys at law, duly authorized to represent Opposer in this proceeding, pursuant to Trademark Rule 2.101(b).

Respectfully submitted,

EDEN FOODS, INC.

By:



Christopher Kelly
Jennifer L. Elgin
Wiley Rein LLP
1776 K Street, N.W.
Washington, D.C. 20006
Phone: (202) 719-7000
Fax: (202) 719-7049

Attorneys for Eden Foods, Inc

Dated: July 17, 2009
13011789.1

CERTIFICATE OF SERVICE

I hereby certify that on this 17TH day of July 2009, I served the foregoing **NOTICE OF OPPOSITION** by causing a copy thereof to be deposited in the United States mail, postage prepaid and addressed as follows:

Martha G. Ajhar
Hartman & Craven LLP
488 Madison Avenue
New York, NY 10022

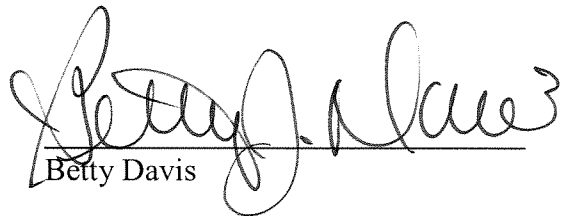

Betty Davis

EXHIBIT A

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,440,754

Registered May 26, 1987

**TRADEMARK
PRINCIPAL REGISTER**

EDENSOY

**EDEN FOODS, INC. (MICHIGAN CORPORATION)
701 TECUMSEH ROAD
CLINTON, MI 49236**

**FIRST USE 7-0-1983; IN COMMERCE
7-0-1983.**

SER. NO. 590,456, FILED 3-28-1986.

**FOR: SOYBEAN BASED FOOD BEVERAGE,
IN CLASS 29 (U.S. CL. 46).**

ELLEN M. DEVINE, EXAMINING ATTORNEY

TRADEMARK
PRINCIPAL REGISTER

EDEN

EDEN FOODS, INC. (MICHIGAN CORPORATION)
701 TECUMSEH RD.
CLINTON, MI 49236

FOR: MAYONNAISE, PICKLED PLUMS; PROCESSED AND UNPROCESSED DRIED FRUITS; PROCESSED NUTS; PROCESSED SEEDS; VEGETABLE OILS; NAMELY, CORN OIL, OLIVE OIL, SAFFLOWER OIL, SESAME OIL; ~~FRUIT JAMS AND FRUIT MARMALADES~~; PEANUT BUTTER; SNACK FOODS CONSISTING OF PROCESSED NUTS, PROCESSED SEEDS AND DRIED FRUITS, IN CLASS 29 (U.S. CL. 46).

FIRST USE 3-0-1967; IN COMMERCE 11-0-1969.

FOR: PROCESSED GRAINS, NAMELY, CORN MEAL, ~~TRITICALE FLOUR~~, SOY FLOUR, CHICKPEA FLOUR, BARLEY FLOUR, WHEAT FLOUR, BUCKWHEAT FLOUR, MILLET FLOUR, RICE FLOUR, RYE FLOUR; PASTA, NAMELY, WHEAT NOODLES, WHEAT AND EGG NOODLES, WHEAT AND SOY NOODLES, WHEAT AND SPINACH NOODLES, WHEAT AND BUCKWHEAT NOODLES, ~~SOY BEAN PASTA~~; SOY SAUCE; ~~WHEAT BRAN~~; WHEAT GERM; BARLEY MALT SYRUP FOR TABLE USE; ~~MAPLE TABLE SYRUP~~; HONEY; MOLASSES; CANDY; VINEGAR; MUSTARD; TOMATO BASED SPAGHETTI SAUCE; SEA SALT FOR TABLE USE; BEVERAGE

CONSISTING OF TEA AND HERBS; ~~BREAKFAST CEREALS CONSISTING PRIMARILY OF PROCESSED AND PARTIALLY PROCESSED GRAINS, SEEDS AND NUTS~~, IN CLASS 30 (U.S. CL. 46).

FIRST USE 3-0-1967; IN COMMERCE 11-0-1969.

FOR: UNPROCESSED BEANS, NAMELY, ADUKI, BLACK TURTLE BEANS, ~~CRANBERRY BEANS~~, KIDNEY BEANS, GREAT NORTHERN BEANS, GREEN LENTILS, MUNG BEANS, NAVY BEANS, PINTO BEANS, SOY BEANS; UNPROCESSED PEAS, NAMELY, CHICKPEAS, SPLIT PEAS; UNPROCESSED NUTS; UNPROCESSED EDIBLE SEEDS; UNPROCESSED GRAINS, NAMELY BARLEY, RICE, RYE, ~~TRITICALE~~, WHEAT, BUCKWHEAT AND MILLET; UNPROCESSED CORN AND UNPOPPED POPCORN; UNPROCESSED SEA VEGETABLES, NAMELY SEA WEED, IN CLASS 31 (U.S. CLS. 1 AND 46).

FIRST USE 3-0-1967; IN COMMERCE 11-0-1969.

FOR: ~~FRUIT JUICES~~, IN CLASS 32 (U.S. CL. 46).

FIRST USE 3-0-1967; IN COMMERCE 11-0-1969.

SER. NO. 329,107, FILED 9-21-1981.

RICHARD A. STRASER, EXAMINING ATTORNEY

Int. Cls.: 29, 30 and 31

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,862,634

Registered Nov. 15, 1994

**TRADEMARK
PRINCIPAL REGISTER**

EDEN

EDEN FOODS, INC. (MICHIGAN CORPORATION)
701 TECUMSEH ROAD
CLINTON, MI 49236

FOR: VEGETABLE OILS, CRUSHED TOMATOES, SAUERKRAUT, AND PROCESSED CAN BEANS, IN CLASS 29 (U.S. CL. 46).

FIRST USE 0-0-1987; IN COMMERCE 0-0-1987.

FOR: PASTA; PIZZA SAUCE; TEAS; CRACKERS; CHIPS; MISOS; AND CONDIMENTS; NAMELY, MUSTARD, SEA SALT, PROCESSED SESAME SEEDS, GARLIC PASTES, FURIKAKE, PICKLED BEEFSTEAK LEAF POWDER, BONITO FLAKES, PICKLED

GINGER, TEKKA, WASABI POWDER, TAMARI, AND SHOYU, IN CLASS 30 (U.S. CL. 46).

FIRST USE 0-0-1975; IN COMMERCE 0-0-1975.

FOR: UNPROCESSED GRAINS; NAMELY, BARLEY, WHEAT, AND QUINOA, IN CLASS 31 (U.S. CL. 46).

FIRST USE 0-0-1978; IN COMMERCE 0-0-1978.

OWNER OF U.S. REG. NOS. 1,233,768, 1,440,754, AND 1,452,337.

SER. NO. 74-373,050, FILED 3-29-1993.

M. E. BODSON, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,918,958

Registered Sep. 12, 1995

**TRADEMARK
PRINCIPAL REGISTER**

EDENBLEND

EDEN FOODS, INC. (MICHIGAN CORPORATION)
701 TECUMSEH ROAD
CLINTON, MI 49236

FIRST USE 1-14-1994; IN COMMERCE
1-14-1994.

SN 74-450,581, FILED 10-25-1993.

FOR: SOY BEAN AND RICE BASED FOOD
BEVERAGES, IN CLASS 30 (U.S. CL. 46).

MARK T. MULLEN, EXAMINING ATTORNEY

Int. Cl.: 1

Prior U.S. Cls.: 1, 5, 6, 10, 26, and 46

Reg. No. 2,184,768

United States Patent and Trademark Office

Registered Aug. 25, 1998

**TRADEMARK
PRINCIPAL REGISTER**

EDEN BIOSCIENCE

**EDEN BIOSCIENCE CORPORATION (WASH-
INGTON CORPORATION)
5795 N.E. MINDER ROAD
POULSBO, WA 98370 EDEN BIOSCIENCE COR-
PORATION (WASHINGTON CORPORATION)**

**5795 N.E. MINDER ROAD
POULSBO, WA 98370**

**FOR: PLANT GROWTH REGULATORS FOR
AGRICULTURAL USE; PLANT FOOD, IN
CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).**

**FIRST USE 5-0-1996; IN COMMERCE
5-0-1996.**

**NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "BIOSCIENCE", APART FROM
THE MARK AS SHOWN.**

SN 75-179,756, FILED 10-10-1996.

IRA J. GOODSID, EXAMINING ATTORNEY

Int. Cls.: 29 and 32

Prior U.S. Cls.: 45, 46 and 48

Reg. No. 2,229,053

United States Patent and Trademark Office

Registered Mar. 2, 1999

**TRADEMARK
PRINCIPAL REGISTER**

EDEN

EDEN FOODS, INC. (MICHIGAN CORPORATION)
701 TECUMSEH ROAD
CLINTON, MI 49236

FOR: FRUIT BUTTER AND FRUIT SAUCE,
IN CLASS 29 (U.S. CL. 46).

FIRST USE 3-0-1967; IN COMMERCE
11-0-1969.

FOR: FRUIT JUICES, IN CLASS 32 (U.S. CLS.
45, 46 AND 48).

FIRST USE 3-0-1967; IN COMMERCE
11-0-1969.

OWNER OF U.S. REG. NOS. 1,233,768, 1,947,286
AND OTHERS.

SER. NO. 75-490,291, FILED 5-22-1998.

AMY DIXON, EXAMINING ATTORNEY

Int. Cls.: 29, 30, 31, and 32

Prior U.S. Cls.: 1, 45, 46, and 48

Reg. No. 2,272,652

United States Patent and Trademark Office

Registered Aug. 24, 1999

TRADEMARK
PRINCIPAL REGISTER



EDEN FOODS, INC. (MICHIGAN CORPORATION)
701 TECUMSEH ROAD
CLINTON, MI 49236

FOR: VEGETABLE OILS; PROCESSED VEGETABLES; SOYBEAN BASED FOOD BEVERAGES; SOYBEAN BASED MISOS; NUT AND FRUIT BUTTERS; PROCESSED NUTS; PROCESSED EDIBLE SEEDS; PROCESSED MIXTURE CONSISTING OF ANY COMBINATION OF FRUITS, NUTS AND SEEDS; VEGETABLE CHIPS; AND DRIED FRUITS, IN CLASS 29 (U.S. CL. 46).

FIRST USE 1-0-1996; IN COMMERCE 1-0-1996.

FOR: TEA; SUGAR; RICE; PASTA AND NOODLES; FLOUR; BREAKFAST CEREALS; HONEY; SYRUP FOR TABLE USE; CANDY; SALT; MUSTARD; VINEGAR; SAUCES, NAMELY, PIZZA AND SPAGHETTI SAUCES, SOY SAUCE; PROCESSED GRAINS; RICE AND GRAIN BASED FOOD BEVERAGES; HERBAL FOOD BEVERAGES; SEASONINGS, NAMELY,

PROCESSED SESAME SEEDS, GARLIC PASTES, FURIKAKE, PICKLED BEEFSTEAK LEAF POWDER, BONITO FLAKES, PICKLED GINGER, TEKKA, WASABI POWDER; CRACKERS; BROWN RICE CHIPS; GRANOLA, IN CLASS 30 (U.S. CL. 46).

FIRST USE 1-0-1996; IN COMMERCE 1-0-1996.

FOR: ~~UNPROCESSED FRUITS~~, UNPROCESSED VEGETABLES, UNPROCESSED GRAINS, UNPROCESSED NUTS AND UNPROCESSED EDIBLE SEEDS, IN CLASS 31 (U.S. CLS. 1 AND 46).

FIRST USE 1-0-1996; IN COMMERCE 1-0-1996.

FOR: FRUIT JUICES; BEVERAGE CONCENTRATES FOR USE IN MAKING NON-ALCOHOLIC SOFT DRINKS, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 11-0-1997; IN COMMERCE 11-0-1997.

OWNER OF U.S. REG. NOS. 1,452,337, 2,040,006, AND OTHERS.

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

Reg. No. 2,326,024

United States Patent and Trademark Office

Registered Mar. 7, 2000

**TRADEMARK
PRINCIPAL REGISTER**

EDENBALANCE

**EDEN FOODS, INC. (MICHIGAN CORPORATION)
701 TECUMSEH ROAD
CLINTON, MI 49236**

**TO HUMAN INTESTINAL BACTERIA, IN
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).
FIRST USE 10-0-1998; IN COMMERCE
10-0-1998.**

**FOR: A FOOD SUPPLEMENT, NAMELY, AN
ORALLY INGESTED ENZYME BENEFICIAL**

SER. NO. 75-625,362, FILED 1-21-1999.

MARLENE BELL, EXAMINING ATTORNEY

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

Reg. No. 2,360,206

United States Patent and Trademark Office

Registered June 20, 2000

**TRADEMARK
PRINCIPAL REGISTER**

EDEN

EDEN FOODS, INC. (MICHIGAN CORPORATION)
701 TECUMSEH ROAD
CLINTON, MI 49236

FIRST USE 9-30-1998; IN COMMERCE 9-30-1998.
OWNER OF U.S. REG. NOS. 1,233,768, 1,947,286
AND OTHERS.

FOR: FOOD SUPPLEMENT, NAMELY, AN ORAL-
LY INGESTED ENZYME BENEFICIAL TO HUMAN
INTESTINAL BACTERIA, IN CLASS 5 (U.S. CLS. 6,
18, 44, 46, 51 AND 52).

SER. NO. 75-776,221, FILED 8-13-1999.
CURTIS FRENCH, EXAMINING ATTORNEY

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

Reg. No. 2,396,738

United States Patent and Trademark Office

Registered Oct. 24, 2000

**TRADEMARK
PRINCIPAL REGISTER**

ÉDEN RANCH

MOORE, PATRICIA (UNITED STATES CITIZEN)
22155 EDEN ROAD
TOPANGA, CA 90290

FOR HUMAN USE, IN CLASS 5 (U.S. CLS. 6, 18,
44, 46, 51 AND 52).
FIRST USE 11-0-1954; IN COMMERCE 11-0-1954.

FOR: FOOD SUPPLEMENTS - VITAMINS, MIN-
ERALS, FOOD DIGESTANT AIDS IN TABLET FORM

SER. NO. 75-425,698, FILED 1-29-1998.

HOWARD B. LEVINE, EXAMINING ATTORNEY

Assignment from Patricia Moore, individual U.S. citizen, to Eden Foods, Inc.,
a Michigan corporation effective 8/25/2000, recorded in the U.S.
Patent and Trademark Office on 11/29/2000, Reel 2153,
Frame 609.

Int. Cl.: 32

Prior U.S. Cls.: 45, 46, and 48

United States Patent and Trademark Office

Reg. No. 2,465,964

Registered July 3, 2001

**TRADEMARK
PRINCIPAL REGISTER**

EDEN SPRINGS

EDEN FOODS, INC. (MICHIGAN CORPORATION)
701 TECUMSEH ROAD
CLINTON, MI 49236

FOR: BOTTLED SPRING WATER, IN CLASS 32
(U.S. CLS. 45, 46 AND 48).

FIRST USE 9-22-2000; IN COMMERCE 9-22-2000.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "SPRINGS" , APART FROM THE
MARK AS SHOWN.

SN 75-400,719, FILED 12-5-1997.

SAMUEL E. SHARPER JR., EXAMINING ATTORNEY

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

United States Patent and Trademark Office

Reg. No. 2,475,031

Registered Aug. 7, 2001

**TRADEMARK
PRINCIPAL REGISTER**

EDEN BIFA 15

EDEN FOODS, INC. (MICHIGAN CORPORATION)
701 TECUMSEH ROAD
CLINTON, MI 49236

FOR: FOOD SUPPLEMENT, NAMELY, AN ORALLY INGESTED ENZYME BENEFICIAL TO HUMAN INTESTINAL BACTERIA, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 9-30-1998; IN COMMERCE 9-30-1998.

OWNER OF U.S. REG. NOS. 1,233,768, 1,947,286 AND OTHERS.

SER. NO. 75-776,220, FILED 8-13-1999.

CURTIS FRENCH, EXAMINING ATTORNEY

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

United States Patent and Trademark Office

Reg. No. 2,503,977

Registered Nov. 6, 2001

**TRADEMARK
PRINCIPAL REGISTER**

EDEN

**EDEN FOODS, INC. (MICHIGAN CORPORATION)
701 TECUMSEH ROAD
CLINTON, MI 49236**

**FOR: DIETARY FOOD SUPPLEMENTS, NAME-
LY, EDIBLE KOMBU ROOT SEAWEED, GARLIC
BALLS AND UME PLUM CONCENTRATE, IN
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).**

FIRST USE 7-0-1983; IN COMMERCE 7-0-1983.

**OWNER OF U.S. REG. NOS. 1,233,768, 2,360,206
AND OTHERS.**

SER. NO. 76-150,542, FILED 10-18-2000.

BROOKE BEYER, EXAMINING ATTORNEY

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,583,453

Registered June 18, 2002

**TRADEMARK
PRINCIPAL REGISTER**

EDENSOY LIGHT

EDEN FOODS, INC. (MICHIGAN CORPORATION)
701 TECUMSEH ROAD
CLINTON, MI 49236

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "LIGHT", APART FROM THE
MARK AS SHOWN.

FOR: SOYBEAN BASED FOOD BEVERAGE, IN
CLASS 29 (U.S. CL. 46).

SN 76-081,936, FILED 6-30-2000.

FIRST USE 12-29-2000; IN COMMERCE 1-2-2001.

OWNER OF U.S. REG. NO. 1,440,754.

LINDA M. KING, EXAMINING ATTORNEY

Int. Cl.: 16

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38 and 50

United States Patent and Trademark Office

Reg. No. 2,905,671

Registered Nov. 30, 2004

**TRADEMARK
PRINCIPAL REGISTER**

EDENEWS

**EDEN FOODS, INC. (MICHIGAN CORPORATION)
701 TECUMSEH ROAD
CLINTON, MI 49236**

FIRST USE 10-0-1999; IN COMMERCE 10-0-1999.

**FOR: NEWSLETTERS IN THE FIELD OF FOOD
AND FOOD-RELATED TOPICS, NUTRITION,
HEALTH AND DIET, FARMING AND AGRICUL-
TURAL AND ENVIRONMENTAL ISSUES, IN
CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).**

**OWNER OF U.S. REG. NOS. 2,281,740, 2,360,206
AND OTHERS.**

SER. NO. 76-508,343, FILED 4-18-2003.

LINDA POWELL, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 2,977,773

United States Patent and Trademark Office

Registered July 26, 2005

**TRADEMARK
PRINCIPAL REGISTER**

EDEN

EDEN FOODS, INC. (MICHIGAN CORPORATION)
701 TECUMSEH ROAD
CLINTON, MI 49236

OWNER OF U.S. REG. NOS. 1,233,768, 2,583,453,
AND OTHERS.

FOR: PROCESSED POPCORN FOR POPPING, IN
CLASS 30 (U.S. CL. 46).

SN 76-553,947, FILED 10-22-2003.

FIRST USE 2-18-2005; IN COMMERCE 2-18-2005.

LINDA POWELL, EXAMINING ATTORNEY

Int. Cls.: 29, 30, and 31

Prior U.S. Cls.: 1 and 46

United States Patent and Trademark Office

Reg. No. 3,071,337

Registered Mar. 21, 2006

**TRADEMARK
PRINCIPAL REGISTER**

EDEN FOODS

EDEN FOODS, INC. (MICHIGAN CORPORATION)
701 TECUMSEH ROAD
CLINTON, MI 49236

FOR: VEGETABLE OILS; PROCESSED VEGETABLES; SOYBEAN BASED FOOD BEVERAGES; SOYBEAN BASED MISOS; NUT AND FRUIT BUTTERS; PROCESSED NUTS; PROCESSED EDIBLE SEEDS; PROCESSED MIXTURE CONSISTING OF ANY COMBINATION OF FRUITS, NUTS AND SEEDS; VEGETABLE CHIPS AND DRIED FRUITS, IN CLASS 29 (U.S. CL. 46).

FIRST USE 0-0-1975; IN COMMERCE 0-0-1975.

FOR: TEA; SUGAR; RICE; PASTA AND NOODLES; FLOUR; BREAKFAST CEREALS; HONEY; SYRUP FOR TABLE USE; CANDY; SALT; MUSTARD; VINEGAR; SAUCES, NAMELY, PIZZA AND SPAGHETTI SAUCES, SOY SAUCE; PROCESSED GRAINS; RICE AND GRAIN BASED FOOD BEVERAGES; HERBAL FOOD BEVERAGES; SEASONINGS, NAMELY, PROCESSED SESAME SEEDS, GARLIC PASTES, FURIKAKE, PICKLED BEEF-STEAK LEAF POWDER, BONITO FLAKES, PICK-

LED GINGER, TEKKA, WASABI POWDER; CRACKERS; BROWN RICE CHIPS; AND GRANO-LA, IN CLASS 30 (U.S. CL. 46).

FIRST USE 0-0-1975; IN COMMERCE 0-0-1975.

FOR: UNPROCESSED FRUITS, UNPROCESSED VEGETABLES, UNPROCESSED GRAINS, UNPROCESSED NUTS AND UNPROCESSED EDIBLE SEEDS, IN CLASS 31 (U.S. CLS. 1 AND 46).

FIRST USE 0-0-1978; IN COMMERCE 0-0-1978.

OWNER OF U.S. REG. NOS. 1,947,286, 2,272,652, AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "FOODS", APART FROM THE MARK AS SHOWN.

SN 76-321,613, FILED 10-5-2001.

SAMUEL E. SHARPER JR., EXAMINING ATTORNEY

Int. Cl.: 29

Prior U.S. Cl.: 46

Reg. No. 3,102,575

United States Patent and Trademark Office

Registered June 13, 2006

**TRADEMARK
PRINCIPAL REGISTER**

EDEN

EDEN FOODS, INC. (MICHIGAN CORPORATION)
701 TECUMSEH ROAD
CLINTON, MI 49236

OWNER OF U.S. REG. NO. 2,229,053.

FOR: DRIED CHERRIES, IN CLASS 29 (U.S. CL. 46).

SER. NO. 76-507,547, FILED 4-18-2003.

FIRST USE 6-28-2002; IN COMMERCE 6-28-2002.

LOURDES AYALA, EXAMINING ATTORNEY